

**LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD**

Meeting of May 24, 2007

Members in Attendance

David Dowling, Chairman
Sara Jane Cate, Vice Chairperson
Jeffrey Staub
Greg Sirb
Alan Hansen

Also in Attendance

James Turner, Solicitor
Dianne Moran, Planning & Zoning Officer

Docket # 1230

Applicant:	Margaret Ann Criss
Address:	102 Fetrow Lane, New Cumberland, PA 17070
Property:	3942 Elmerton Avenue, Harrisburg, PA
Interpretation:	A multi-family dwelling is not permitted in the R-1, Low Density Residential District Applicant proposes to sell the property as a multi-family dwelling without displacing the three renters living in the home.
Grounds:	Article 3, Section 306.B.1 of the Lower Paxton Township Codified Ordinances pertains to this application.

The following were sworn in: Margaret Ann Criss, 102 Fetrow Lane, New Cumberland, PA, applicant; Jim Criss, husband of the applicant at the same address; and Dianne Moran, Lower Paxton Township Planning and Zoning Officer.

Ms. Moran testified that the appropriate fees were paid on May 2, 2007. Proper advertisements were made in the Paxton Herald on May 9 and 16, 2007. The property was posted on May 15, 2007.

Ms. Moran testified that Article 3, Section 306.B.1, Allowed Uses in Primarily Residential Districts, of the Lower Paxton Township Codified Ordinances, pertains to this variance application. A multi-family dwelling is not permitted in the R-1, Low Density Residential District. The applicant proposes to sell the property as a multi-dwelling without displacing the three renters living in the home.

Mr. Dowling asked about the building permits attached to the application. Ms. Moran stated that she provided all building permits for Elmerton Avenue since 1965 through present day, in order to show that there are no building permits on file for this address.

Ms. Criss stated that she purchased the home in 1988 for the purpose of having her mother live in a separate yet attached unit. When they moved into the home, the second unit had a refrigerator and a stove.

Ms. Criss stated she has a letter from a neighbor that has lived there for 33 years stating that it had been rented out all of the years she could remember.

Ms. Criss stated that she took the stove and refrigerator back to the second floor and upgraded the sink that was there. They did not make any structural changes to that floor at all.

Ms. Criss stated that she is a social worker and had clients that were missionaries about to leave for a mission in 5 weeks, that had a son that had head trauma so she offered to let them stay with her. They stayed in the basement, put a microwave in, and put a bed on the concrete floor, and used the shower on the main floor. Ms. Criss's mother moved away to take care of her grandmother so she rented the upstairs to Widener law students to help pay the mortgage. She was never aware that it was single family residential. The house was built in 1949 or 1950.

The other neighbors in the neighborhood told Ms. Criss that the previous owners had always rented and used the back entrance. That stairway to the back entrance was rotted when she bought it so they did change them and the direction of them.

Ms. Criss stated that when the missionary couple moved out, she rented the basement to a young lady who had lost her job. She used the shower on the main level and lived there for a couple years.

Ms. Criss had a shower installed in the basement and the laundry moved upstairs while her mother lived in the house. The work done in the basement was done by Tom Boyd and it was Ms. Criss's understanding that he obtained a building permit, and it was inspected by an inspector. He told her that he does that kind of work regularly and the inspectors are always pleased with his work but it still had to be inspected. They came and inspected the work and there was never any question about it.

Mr. Dowling asked if Ms. Criss had an explanation as to why the Township has no record of any building permits for this address. Ms. Criss did not. Ms. Cate asked if Ms. Criss had asked the builder if he had any information about the permits. Ms. Criss stated she was unaware that there was no record of her permits until just now, so no, she did not ask him for anything. That work was done in 1991. Mr. Dowling asked if he did

the renovations to the basement. Ms. Criss stated that he did some of the renovations to the basement. Mr. Dowling asked if an inspector came out to look at the work. Ms. Criss answered yes. Mr. Hansen asked if the inspector was inspecting the plumbing or electrical work. Ms. Criss did not know. Mr. Hansen speculated that maybe the inspector was an electrical inspector and not the Township inspector. Ms. Criss stated that if she had known that the Township had no record of the permits, she would have contacted him.

Mr. Dowling asked if the home is three units. Ms. Criss answered yes, but they are not divided. She presented photographs to the Board showing the appraisal photos of the house in 1988. Mr. Dowling marked the appraisal photos as Exhibit 1. The steps to the upper level were rotted and there was a fence installed that went right up to the steps so that you had to squeeze through to use the steps. When they were fixed, they were turned to face the other direction. Ms. Criss presented a photograph of the new steps. Ms. Cate asked if Ms. Criss added a deck. Ms. Criss answered yes, that it is a landing where the stairs change direction.

Mr. Dowling asked if a permit was obtained to replace the steps. Mr. Criss stated that he called the Township about permits for the steps and was told that he did not need one to replace the existing steps.

Mr. Turner asked for the rest of the appraisal. Ms. Criss gave it to Mr. Turner, and pointed out the section that talks about the rental space. Ms. Criss stated that to her knowledge, the only time the house was used for a single family is the four years the family lived in it prior to her.

Ms. Cate asked if that owner changed the house to a two-unit. Ms. Criss stated that it had been a two-unit for all those years, until they moved in and only one family lived there. They used the upstairs living room as a bedroom and removed the bathtub from the upstairs bathroom.

Ms. Criss stated that the house was advertised as a one family house that could easily be changed back to a two-family home. Mr. Dowling asked if Ms. Criss confirmed that information with the Township. Ms. Criss answered no, because she had been working with a realtor whom they knew and trusted.

Mr. Dowling asked if Ms. Criss has used the house as at least a two-unit from 1988 until the present. Ms. Criss stated that is correct. Mr. Dowling asked if she would now like to sell it as a two- or three-unit home. Ms. Criss stated that is correct.

Ms. Cate stated it is her understanding that Ms. Criss made the house a three unit. Ms. Criss stated that is correct.

Ms. Criss presented a letter from the neighbor across the street who has lived there for 33 years and another neighbor who has lived there for 19 years.

Mr. Turner asked how many electrical services come into the house. Ms. Criss stated that it is all under one service. They have never divided the place into three units, and they always paid for one electrical service, one trash bill, and one water bill. The house is not divided into separate units, each of the renters is separated by a door that had a hook-n-eye closure on either side for privacy, but are friendly enough that they do spend a lot of time together.

Ms. Criss stated that she became aware of this problem when someone approached her about buying the property. That person did some research and found out it is zoned for single family use. She would have tried to correct this right away but at the time it was Christmastime, and her mother had just died, and her two dogs had also then died.

Mr. Tuner read from the appraisal that the subject was at one time a two-unit which has been converted back to single family use. The appraisal was done on the property as a single family property. Mr. Turner stated it is his understanding that when Ms. Criss bought the house it was single family, but it was represented to her that it would be an easy task to convert it back. Ms. Criss stated that is correct and that she may have been naïve at the time, but she trusted her realtor, and did not know to ask those kinds of questions. Ms. Criss noted that Ms. Cate looked at her like she was stupid, but she did not know to look further into it. Mr. Dowling stated that no one thinks she is stupid.

Mr. Dowling asked for input from Township Staff, and noted that had the applicant tried to obtain a building permit the Township would have had notice and said that the place could not be converted into multi-family. Ms. Moran agreed, and noted that she did not investigate too far into the matter since it may bring up such things as years of back sewer payments because each unit in Lower Paxton Township requires its own sewer connection.

Mr. Sirb felt that the house is a single family house rented out as best it could. It is not an apartment building. Mr. Turner asked if the building codes would have required separate electrical services for each unit, and possibly separate water services. Mr. Sirb noted that would have made it truly an apartment under standard definitions.

Mr. Turner asked the nature of the renovations in the basement, and if they included a full kitchen installation. Ms. Criss stated that they moved a stove down there, and a refrigerator and a countertop. It is basically one room with a carpeted bathroom. Mr. Turner asked if there was plumbing work done with those renovations. Ms. Criss stated that the plumbing was done when the laundry was moved and the shower was installed in the basement. Ms. Cate asked if there was also a toilet. Ms. Criss stated there

is a shower, toilet and sink. Mr. Turner asked if the sink was there when she purchased the property. Ms. Criss stated the sink was not hooked up when she bought the property, and they used the sink from the third floor. Mr. Turner noted that there has been a lot of plumbing and electrical work done on this property without anybody bothering to pull any permits. Mr. Sirb noted it is impossible that the Township has no permits on file except that the builder knew that if it were presented to the Township it would be questioned. Ms. Criss stated she did not know this, and as soon as she found out there was a problem, they are trying to do all they can to correct even if it means selling it as single family. She does not like being out of compliance and did not know until tonight that the Township had no permits on file.

Mr. Dowling called for comment from the audience.

Lynn Shaffer, resident of 4000 Elmerton Avenue and owner of 3961 Elmerton Avenue was sworn in. Ms. Shaffer stated that 4000 Elmerton Avenue is about a block away on the same side of the street, and 3961 is closer to the property on the opposite side of the street. Ms. Shaffer felt that the request should be denied. The reasons are as follows: there will be additional traffic and that particular property sits on a crest of a hill and is very hard to see out of; the area is a single family community and it would be a mistake for the Township to change the rule for one house, and it would set a precedence for others; there would be additional people living in the house and there should be a limit on how many people live in a house; there will be a need for increase fire and police protection because of the increase in people; the house was originally built as a single family home; additional people would create additional flow to the sewer system; the benefits the township receives for property taxes such as parks and libraries would not be properly compensated; this property will need to pay extra for extra trash service. Ms. Shaffer stated that the person who owns the house does not live there and does not have the best interests of the Township in mind and are looking to make more money.

George Marion, 3948 Elmerton Avenue, was sworn in. Mr. Marion stated he did not have a problem with the current situation and noted that the property is well taken care of. His concern was with future owners and who will take care of it and who will live there when the current residents move out. Right now, it is taken care of and he has no problem with the current residents, but is concerned with the future owner and future residents.

Ms. Criss commented that it was her understanding that the house was built as a two-unit even if it was considered a single family dwelling, and the original owner had renters that were other than family. In regard to the comment about traffic, the driveway is on the crest of the hill, but there has never been more than three cars at that property. She noted that a regular single family dwelling could have up to five people living in a house and have problems with cars. She has talked to the neighbors about that and no one has ever bothered them with parking. There is one tenant in the house that has a car and the others do not. Ms. Criss took exception to the comment that she does not have

the best interest of the Township in mind and stated that she has not lived there in 10 years but prides herself in that house and is as concerned about the house regardless if it is a one unit or three-unit.

With regard to the comments about sewer and trash, Mr. Criss stated that there has never been more than four people living in the house. They pay the trash and sewer. The residents do not use more than the four allotted trash cans, and the water and sewer usage are no different than a typical single family house because of the number of people.

With regard to setting precedence, Ms. Criss noted that she is requesting to continue a non-conforming use variance, not a change to a multi-family house.

Ms. Cate stated that the applicant bought the house as a two unit house and made it into a three-unit house without ever getting permits. Ms. Criss stated she got a permit but does not know what happened. They are Christians and were unaware they were doing anything wrong.

Mr. Staub speculated that a two-unit would be assessed differently than a one-unit, and asked if the house is taxed as a single unit or a multi-unit. Ms. Criss recently learned that it was taxed as low density residential. Mr. Staub stated he is certain that the house would be assessed differently if it were multi-family. Mr. Sirb felt strongly that it was probably assessed as a single family house. Mr. Turner stated that assessment records would change when building permits are obtained, and since there are no permits on file, the assessment office would have no reason to change the assessment of the property. Mr. Turner agreed that the County records would show the property to be single family.

Mr. Turner speculated that there are quite a few building code issues that would need to be corrected. Ms. Moran agreed.

Mr. Staub noted that multi-family dwellings require more off street parking than a single family house. Ms. Moran agreed, and noted that even though there is one vehicle at the home right now, if it is sold as multi-family, different renters may have different dynamics. Ms. Criss stated that the house is small enough that more than four people would never want to live in the house. Ms. Criss felt that if parking has not been an issue for at least 18 years, it would not be a problem in the future. Mr. Turner stated that the concern of the Board is that while she may have been careful as to who she rents to, future owners may not be. There could be three couples in the house, requiring six spaces at the property. Ms. Criss stated that a family with four children can easily have six cars. Mr. Turner agreed, noting that that usually becomes a problem with the neighbors as well.

Ms. Cate made a motion to deny the request for variance. Mr. Sirb seconded the motion. Mr. Dowling called for discussion on the motion. Mr. Dowling stated that

regardless as to how the vote goes on this matter, he does agree that she has a lovely home and does not think she will have any difficulty selling it as a one-unit perhaps with an in-laws quarters. A role call vote was as follows: Mr. Hansen-Aye; Mr. Staub-Aye; Mr. Sirb-Aye; Ms. Cate-Aye; and Mr. Dowling-Aye.

The hearing ended at 7:43 pm.

Docket # 1231

Applicant:	Seltzer's Enterprises
Address:	200 N Zinn Mill Road, Lebanon, PA
Property:	4443 Augusta Drive, Harrisburg, PA
Interpretation:	The rear yard setback is 30 feet. Applicant proposes a sunroom addition that encroaches 10 feet into the setback.
Grounds:	Article 3, Section 307.A of the Lower Paxton Township Codified Ordinances pertains to this application.

The following were sworn in: Ginny Bittner, Seltzers Enterprises; and Dianne Moran, Lower Paxton Township Planning and Zoning Officer.

Ms. Moran testified that the appropriate fees were paid on April 23, 2007. Proper advertisements were made in the Paxton Herald on May 9 and 16, 2007. The property was posted on May 15, 2007.

Ms. Moran testified that Article 3, Section 307.A of the Lower Paxton Township Codified Ordinances, pertains to this variance application.

Ms. Bittner stated that there is an existing back porch on the home that measures 7 feet by 16 feet. It is small and the windows on the porch are inoperable. They want to make that area bigger with windows that work. The hardship is that Mr. Maurer is disabled, he has had a stroke, prostate cancer, and chemotherapy. Mr. Maurer is unable to get outside. They want to improve his quality of life by letting him enjoy the outdoors from his porch since he is unable to go outside.

Another hardship is that this house sits on a corner lot, and therefore has different setbacks. Most townships say that the corner lots have two side yards, and if that was the case in this township, there would be no need for a variance. The existing back porch is 30 feet from the rear property line and is in conformance. They propose to add an additional ten feet to the porch allowing it to be a 17 foot by 16 foot sunroom. That encroaches ten feet into the setback.

The applicant had no objections to marking the application and attachments as exhibits.

The photographs submitted represent the existing back porch. The brochure represents what her company builds. Ms. Bittner stated that her company's product has all vinyl siding and all vinyl windows that are double operable sliding windows and the windows can be removed to use the nylon mesh screens only if desired. The room will be an aluminum structure encapsulized in all vinyl siding. The "Studio" style room shown in the brochure represents what is proposed at this address.

Mr. Sirb asked if the width, roof slope, and siding will be the same and the only change is the length of the room will be increased 10 feet. Ms. Bittner stated that is correct. The door will be located in the same place as it is now.

Mr. Dowling asked if footers are required for the concrete slab. Ms. Bittner answered yes, noting that they will do a complete footing and use a monolithic pour with rebar all the way around. They use 4 inches of stone and that is then meshed.

Mr. Dowling asked if a building permit is required. Ms. Bittner answered yes.

Mr. Dowling stated that decisions about rear and side yard setbacks are dependant on what the surrounding neighbors think, and he asked if the neighbors had been contacted or if there were any neighbors present. Ms. Moran stated that the property and surrounding area was posted, and no neighbors called the office to inquire or object about the application. Ms. Bittner stated that she spoke to the neighbor and they did not have any problems. Ms. Cate noted that the house to the rear of this is for sale, and felt that they would not care one way or the other what is being done since they are moving. Ms. Bittner stated she also spoke to the neighbor across the street, and neither one had any problem with it.

The Township had no position on the application.

Mr. Staub asked if Fairway Estates has a homeowners association. Ms. Moran did not believe they did. Ms. Bittner asked the homeowner, and they also did not know of one.

There was no comment from the audience.

Mr. Sirb asked if the reason to increase the room by ten feet is to increase the usable living area. Ms. Bittner answered yes, noting that Mr. Maurer has significant trouble with balance and with walking and therefore does not go outside much at all, so they want to allow him to enjoy the outdoors without difficulty.

Mr. Hansen made a motion to approve the variance application. Mr. Sirb seconded the motion and a roll call vote followed: Mr. Hansen-Aye; Mr. Staub-No; Mr. Sirb; Ms. Cate-No; and Mr. Dowling-Aye. The variance was granted.

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The hearing ended at 7:56 pm.

Respectfully Submitted,

Michelle Hiner
Recording Secretary